

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.12583 of 2020**

Arising Out of PS. Case No.-177 Year-2019 Thana- CHAUSA District- Madhepura

Dipak Kumar, S/o Gurudeo Mehta, R/o village- Akbarpur, P.S.- Bhawanipur,
(Akbarpur O.P.), District- Purnea under the guardianships of his father
Gurudeo Mehta, S/o Late Musahru Mehta, R/O vill-Akbarpur, P.S.
Bhawanipur (Akbarpur OP), District-Purnea Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Alok Kumar Singh, Advocate

For the Opposite Party/s : Mr.Binod Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 31-08-2020 Heard learned counsel for the petitioner and Mr. Binod
Kumar, learned APP for the State.

The petitioner in the present case is seeking pre-arrest bail in connection with Chousa P.S. Case No. 177 of 2019 registered for the offences punishable under Sections 365, 302, 201, 120(B)/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the deceased Rupesh Kumar Mehta is the son of the informant. As per the First Information Report, on 15.06.2019 he had slept in his shop at Kalasan Chowk from where some unknown persons abducted him and despite hectic search he could not be traced out and later on his dead body was recovered from a drain.

Learned counsel submits that so far as this petitioner is concerned, he has been made accused only on mere suspicion. It is submitted that not a single witness has come forward to support the prosecution case. The petitioner is a student of intermediate class, he is



innocent and has been falsely implicated.

Mr. Binod Kumar, learned APP for the State has opposed the prayer for anticipatory bail of the petitioner. With reference to the materials collected in course of investigation, learned APP submits that in course of investigation it has come that the sister of this petitioner and the deceased had developed illicit relationship, she was also married to co-accused Abhishek and for this reason the petitioner and his brother-in-law Abhishek have indulged in killing of the son of the informant. In this connection the discussions in paragraph '61' of the case diary has been referred to. The mobile detail collected by I.O. is showing talk between the deceased and brother-in-law (*Bahnoi*) of this petitioner on 15.06.2019.

It is, thus, submitted that the petitioner does not deserve privilege of anticipatory bail. Learned APP has, however pointed out that the petitioner has been shown aged about 15 years only in the petition filed before this Court, therefore while considering his prayer, in case the petitioner is made to surrender in the Court below his age would be required to be determined first.

Having regard to the facts and circumstances of the case wherein this Court has noticed that the investigation in this case against him has revealed certain materials which are indicating towards the participation of this petitioner along with his brother-in-law who is co-accused in this case in the alleged occurrence, I am not inclined to grant privilege of anticipatory bail to the petitioner. The prayer for anticipatory bail is, thus, refused.



However, while refusing the prayer for anticipatory bail of the petitioner, taking note of the submission of learned APP that the petitioner has been shown only of 15 years in the petition, it is directed that in case the petitioner surrenders and prays for regular bail in the Court below, before considering his prayer for bail, the court below shall consider the prima-facie materials which may be brought before him with regard to the age of the petitioner, the petitioner shall not be forwarded to jail in a routine manner and/or without ascertaining his age.

In case the court below finds from the materials on the record or forms the prima facie opinion that the petitioner seems to be a juvenile, he will be produced before the Juvenile Justice Board, Madhepura where his prayer for bail shall be considered after determination of his age in accordance with law.

In case, however, no material is produced before the learned court below with regard to juvenility of the petitioner and the Court does not form such opinion, his prayer for regular bail shall be considered on its own merit without being prejudiced by the present order of this Court.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

